



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220228-0063; RTID 0648-XX078]

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2022 Allocation of Northeast Multispecies Annual Catch Entitlements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: We propose to approve allocations of annual catch entitlements to groundfish sectors for the 2022 fishing year and approve changes to previously approved sector operations plans. This rule also proposes to disapprove four novel sector exemption requests. The action is necessary because sectors must receive allocations in order to operate in fishing year 2022. This action is intended to allow limited access permit holders to continue to operate or form sectors, as authorized under the Northeast Multispecies Fishery Management Plan, and to exempt sectors from certain effort control regulations to improve the efficiency and economics of sector vessels.

DATES: Comments must be received on or before [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0026, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA-NMFS-2022-

0026 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of each sector’s operations plan and contract, as well as the programmatic environmental assessment for sectors operations in fishing years 2015 to 2020 and other supporting documents are available from the NMFS Greater Atlantic Regional Fisheries Office (GARFO): Contact Kyle Molton at *Kyle.Molton@noaa.gov*. These documents are also accessible via the Federal eRulemaking Portal: *https://www.regulations.gov*.

To review **Federal Register** documents referenced in this rule, you can visit: *https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan*.

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281-9236.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Multispecies Fishery Management Plan (FMP) defines a sector as “a group of persons holding limited access Northeast multispecies permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) [*sic*] in order to achieve objectives

consistent with applicable FMP goals and objectives.” A sector must be comprised of at least three Northeast multispecies permits issued to at least three different persons, none of whom have any common ownership interest in the permits, vessels, or businesses associated with the permits issued [to] the other two or more persons in that sector. Sectors are self-selecting, meaning participation is voluntary, and each sector can choose its members.

The Northeast multispecies sector management system annually allocates a portion of the Northeast multispecies stocks to each sector. These annual sector allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector’s members. Sectors may receive allocations of large-mesh Northeast multispecies stocks with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout, which are non-allocated species managed under separate effort controls. ACEs are portions of a stock’s annual catch limit (ACL) available to commercial Northeast multispecies vessels. A sector determines how to harvest its ACE.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several universal exemptions from the FMP’s effort controls. These universal exemptions apply to: Trip limits on allocated stocks; portions of the Gulf of Maine (GOM) Cod Protection Closures; Northeast multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on Georges Bank (GB); and the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing under the provisions of the Redfish Exemption Program. The FMP allows the Council to add universal exemptions using the framework adjustment procedure. Sectors may request additional exemptions annually as part of their sector operations plans to increase flexibility and fishing opportunities. Sectors are prohibited

from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the sectors, there are several state-operated permit banks that each receive an allocation based on the fishing history of permits they hold. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with sector administrative and procedural requirements (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of permits to NMFS, as specified in the permit bank's Memorandum of Agreement between NMFS and the state. These permits are not assigned to active vessels; instead, the allocations associated with the permits may be leased to vessels enrolled in sectors. State-operated permit banks contribute to the total allocation under the sector system.

We have previously approved 16 sectors to operate in fishing years 2021 and 2022 and also approved 19 requested exemptions for sectors (86 FR 22898; April 30, 2021). Because all approved operations plans cover two fishing years, approved sectors may continue operations and the approved exemptions in fishing year 2022. Copies of the operations plans and contracts, the environmental assessment (EA), and other supporting documents are available at: <https://www.fisheries.noaa.gov/species/northeast-multispecies> and from NMFS (see **ADDRESSES**). This action proposes 2022 allocations to sectors based on the specifications proposed by the New England Fishery Management Council in Framework Adjustment 63 to the FMP. This action also proposes several changes to already approved sector operations plans and proposes to deny four requests for novel sector exemptions.

Operations Plan Submissions and Changes

Annually, we solicit operations plan submissions for consideration for approval; however, sectors already approved to operate in fishing years 2021 and 2022 were not

required to submit operations plans for 2022. We did not receive any new operations plans for approval for fishing year 2022. As a result, we are not proposing to approve any additional sectors to operate in fishing year 2022 beyond those previously approved.

Although no new operations plans were submitted we did receive several requests to modify existing sector operations plans that we propose to approve. Sectors may request changes to operations plans as needed to implement administrative changes to their operations. Several sectors have requested changes related to electronic monitoring (EM), including adding audit model EM plans to their existing operations plans, updates to methods used to estimate discards, and revised language authorizing the sharing of confidential data to support EM program operations. Additionally, several sectors requested modifications that would add NMFS-approved maximized retention electronic monitoring (MREM) program language to their sector operations plans. The addition of MREM language would allow for a more seamless transition to MREM for sectors vessels should it be approved for operation for all sectors in fishing year 2022. Several sectors also requested operations plan modifications to add a description of a gear conflict reduction agreement that sector members have agreed to in order to limit gear conflicts between sector groundfish and lobster vessels. We propose to approve these changes to existing sector operations plans.

Sector Allocations for Fishing Year 2022

This rule proposes 2022 ACE allocations to all sectors based on their 2021 sector rosters, as sectors have not yet submitted 2022 rosters. The preliminary allocations will be based on the expected 2022 ACL for each stock. Because sectors are operating under 2-year operations plans for fishing years 2021 and 2022, these allocations would allow vessels enrolled in sectors to operate under their existing operations plan, as approved.

For fishing year 2022, we set a deadline for sectors to submit preliminary sector rosters by February 28, 2022, in order to determine rosters for final rulemaking and

allocations. Sectors may set a more restrictive enrollment deadline for their members. Any changes in sector rosters will be reflected in ACE allocations in the final rule; roster changes may result in significant changes in sector allocations. Rosters published in the final rule may still not reflect the final ACE allocation for fishing 2022 because all permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2022, to withdraw from a sector and fish in the common pool for fishing year 2022.

We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 1 shows the preliminary projected total PSC for each sector by stock for fishing year 2022. Tables 2 and 3 show an estimate of the preliminary allocations that each sector will be allocated, in pounds and metric tons, respectively, for fishing year 2022, based on their fishing year 2021 rosters. We provide the final allocations, to the nearest pound, to each sector based on their final May 1 rosters. We use these final allocations, along with later adjustments including ACE transfers, reductions for overages, or increases for carryover, to monitor sector catch. The common pool sub-ACLs are also included in each of these tables. The common pool sub-ACL is managed separately from sectors and does not contribute to available ACE for leasing or harvest by sector vessels.

We do not assign a permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) as its Eastern GB cod. The Eastern GB haddock allocations

are determined in the same way. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock ACEs in the Eastern U.S./Canada Area. A sector may also "convert," or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

We expect to finalize 2021 catch information for sectors in summer 2022. We will allow sectors to transfer fishing year 2021 ACE for two weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2021 overages. If necessary, we will reduce any sector's fishing year 2022 allocation to account for a remaining overage in fishing year 2021. Each year we notify the Council and sector managers of this deadline and announce this decision on our website at:

<https://www.fisheries.noaa.gov/species/northeast-multispecies>.

Table 1 -- Cumulative PSC (Percentage) Each Sector Would Receive by Stock for Fishing Year 2022*

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA/Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	66	12.91201525	0.69970954	1.96267839	0.18099559	0.01093447	0.19005237	1.70866378	0.50303247	1.09848991	0.02003390	8.02535090	1.02747169	0.56965180	1.07558798	3.41104460
Maine Coast Community Sector	100	2.46465820	14.32831077	3.41760008	11.09853612	2.62555258	2.56811874	4.98632158	13.90683769	11.13417790	1.20530346	5.56725060	2.00900077	9.71980227	14.29807630	13.45174502
Maine Permit Bank	11	0.13361161	1.15527371	0.04432773	1.12456784	0.01377701	0.03180705	0.31794656	1.16407704	0.72688466	0.00021715	0.42663133	0.01789123	0.82190541	1.65423037	1.69506266
Mooncusser Sector	48	11.95940509	6.22441724	3.83051665	3.68870155	1.22307304	0.85547320	3.01233271	0.85789918	1.81231812	0.94550207	2.84735133	2.44445581	4.74534752	10.66178384	10.52833852
NEFS 2	127	6.50377730	26.60642444	10.68672011	22.23639211	1.90722660	1.65680176	25.06542516	11.18795860	14.64245378	3.21713432	24.52914050	4.17525707	15.19764105	8.97809039	14.53817798
NEFS 4	58	7.40278746	11.14715279	5.81741902	8.87488520	2.16178984	2.26424835	6.38868785	9.51519683	8.85678156	0.69256896	7.43025795	0.99122070	6.67292713	8.26904075	6.86549108
NEFS 5	22	0.47171697	0.32173996	0.58091379	0.11414072	1.05907256	18.39722054	0.94737902	0.46136022	0.65508997	0.31546201	0.84237741	11.30626214	0.01842240	0.08282167	0.03832046
NEFS 6	23	3.11400760	2.92154892	3.58633261	4.39667574	3.30346794	5.11479613	4.18474608	4.55131759	6.00691065	1.72190154	4.75208259	1.90633969	6.81082532	4.52244826	3.66490102
NEFS 7	7	0.46305698	0.02291312	0.39735538	0.01682579	1.30011492	1.03798542	0.05122608	0.25069186	0.25401118	0.30163925	0.05425034	0.18875853	0.15784019	0.07884075	0.18125420
NEFS 8	52	9.74740165	2.36155604	9.19478219	5.08770917	22.13250390	7.55578310	6.88682924	7.61264285	6.36103710	29.74215982	3.95221384	10.21118534	5.31534068	4.49126659	4.00416803
NEFS 10	29	0.52585353	2.47139968	0.17673209	1.28210628	0.00114846	0.54787117	4.28071114	1.08110214	2.04602336	0.01083157	9.10605344	0.60104219	0.33492866	0.65504499	0.76337372
NEFS 11	43	0.39631081	11.55197634	0.03469810	2.78851224	0.00148374	0.01147434	2.43786953	1.58857268	1.60337452	0.00305958	2.04949811	0.02122336	1.87813755	4.30520429	8.77057673
NEFS 12	22	0.62936609	3.13340099	0.09375956	1.08960389	0.00042969	0.03423699	8.58774919	0.79724602	0.62375273	0.00060545	13.19945544	0.25920606	0.22794000	0.29614103	0.77811802
NEFS 13	70	12.65390016	0.80182096	21.35179272	0.97739231	36.32284531	23.98638456	7.00125506	8.74395988	9.65967443	19.43367782	2.32792940	17.66348486	4.43539316	2.27032027	2.70789206
New Hampshire Permit Bank	4	0.00082216	1.14551884	0.00003406	0.03234889	0.00002026	0.00001788	0.02180780	0.02847787	0.00615970	0.00000324	0.06070545	0.00003630	0.01940243	0.08135666	0.11135242
Sustainable Harvest Sector 1	30	5.57899029	2.98581817	7.55457484	9.03142800	3.19074027	1.07671984	2.83579743	11.36677073	9.28674073	7.82278738	2.56491779	3.04430302	8.25371859	12.69547070	6.46257663
Sustainable Harvest Sector 2	28	3.67707499	1.67621458	1.80758272	1.49630004	5.08889227	4.55761667	5.67454721	2.88513497	2.46063067	8.67082704	4.21283994	8.32194044	1.13510819	1.90338847	1.27911759
Sustainable Harvest Sector 3	58	16.98068153	7.39596460	26.16564167	23.97370662	11.63547821	7.10548269	9.62314826	20.13175298	19.41125647	17.60739462	3.10048367	21.67414282	32.24513087	22.44023779	19.70729108
Common Pool	511	4.38456235	3.04883932	3.29653828	2.50917190	8.02144893	23.00790920	5.98755633	3.36596842	3.35423255	8.28889083	4.95120998	14.13677799	1.44053678	1.24064892	1.04119820

* This table is based on fishing year 2021 sector rosters and will be based on preliminary 2022 sector rosters in the final rule.

Table 2 -- Estimated ACE (in 1,000 lb), by Stock, for Each Sector for Fishing Year 2022*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	46	24	4	287	2,975	28	0	0	26	29	32	0	50	7	120	47	1,063
MCCS	9	5	85	499	5,180	1,726	6	1	76	806	323	15	34	13	2,048	627	4,192
MOON	42	22	37	560	5,806	574	3	0	46	50	53	12	18	16	1,000	468	3,281
MPB	0	0	7	6	67	175	0	0	5	67	21	0	3	0	173	73	528
NEFS 2	23	12	158	1,561	16,199	3,459	4	1	382	649	425	40	152	27	3,203	394	4,530
NEFS 4	26	14	66	850	8,818	1,381	5	1	97	552	257	9	46	6	1,406	363	2,139
NEFS 5	2	1	2	85	881	18	2	6	14	27	19	4	5	72	4	4	12
NEFS 6	11	6	17	524	5,436	684	7	2	64	264	174	21	29	12	1,435	198	1,142
NEFS 7	2	1	0	58	602	3	3	0	1	15	7	4	0	1	33	3	56
NEFS 8	34	18	14	1,343	13,937	791	47	3	105	441	185	369	24	65	1,120	197	1,248
NEFS 10	2	1	15	26	268	199	0	0	65	63	59	0	56	4	71	29	238
NEFS 11	1	1	69	5	53	434	0	0	37	92	47	0	13	0	396	189	2,733
NEFS 12	2	1	19	14	142	169	0	0	131	46	18	0	82	2	48	13	242
NEFS 13	45	23	5	3,120	32,365	152	78	8	107	507	281	241	14	112	935	100	844
NHPB	0	0	7	0	0	5	0	0	0	2	0	0	0	0	4	4	35
SHS 1	20	10	18	1,104	11,451	1,405	7	0	43	659	270	97	16	19	1,739	557	2,014
SHS 2	13	7	10	264	2,740	233	11	2	87	167	71	108	26	53	239	84	399
SHS 3	60	31	44	3,823	39,661	3,729	25	2	147	1,167	564	219	19	138	6,795	985	6,141
Common Pool	15	8	18	482	4,997	390	17	8	91	195	97	103	31	90	304	54	324
Sector Total	337	177	577	14,128	146,582	15,165	197	26	1,434	5,603	2,807	1,139	589	545	20,770	4,333	30,837

*This table is based on fishing year 2021 sector rosters and 2022 catch limits recommended by the Council in Framework 63.

#Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent potential allocations for each sector.

Table 3 -- Estimated ACE (in metric tons), by Stock, for Each Sector for Fishing Year 2022*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	21	11	2	130	1,349	13	0	0	12	13	14	0	23	3	54	21	482
MCCS	4	2	39	226	2,350	783	3	0	35	366	147	7	16	6	929	285	1,901
MOON	19	10	17	254	2,634	260	1	0	21	23	24	5	8	7	454	212	1,488
MPB	0	0	3	3	30	79	0	0	2	31	10	0	1	0	79	33	240
NEFS 2	10	5	72	708	7,348	1,569	2	0	173	294	193	18	69	12	1,453	179	2,055
NEFS 4	12	6	30	386	4,000	626	2	0	44	250	117	4	21	3	638	165	970
NEFS 5	1	0	1	38	399	8	1	3	7	12	9	2	2	33	2	2	5
NEFS 6	5	3	8	238	2,466	310	3	1	29	120	79	10	13	5	651	90	518
NEFS 7	1	0	0	26	273	1	1	0	0	7	3	2	0	1	15	2	26
NEFS 8	16	8	6	609	6,322	359	21	1	48	200	84	168	11	29	508	89	566
NEFS 10	1	0	7	12	122	90	0	0	30	28	27	0	26	2	32	13	108
NEFS 11	1	0	31	2	24	197	0	0	17	42	21	0	6	0	180	86	1,240
NEFS 12	1	1	8	6	64	77	0	0	59	21	8	0	37	1	22	6	110
NEFS 13	20	11	2	1,415	14,680	69	35	4	48	230	127	109	7	51	424	45	383
NHPB	0	0	3	0	0	2	0	0	0	1	0	0	0	0	2	2	16
SHS 1	9	5	8	501	5,194	637	3	0	20	299	122	44	7	9	789	253	913
SHS 2	6	3	5	120	1,243	106	5	1	39	76	32	49	12	24	109	38	181
SHS 3	27	14	20	1,734	17,990	1,692	11	1	67	529	256	99	9	62	3,082	447	2,786
Common Pool	7	4	8	218	2,267	177	8	4	41	89	44	47	14	41	138	25	147
Sector Total	153	80	262	6,409	66,488	6,879	89	12	651	2,542	1,273	517	267	247	9,421	1,965	13,988

*This table is based on fishing year 2021 sector rosters and 2022 catch limits recommended by the Council in Framework 63.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent potential allocations for each sector.

Exemptions Previously Granted for Fishing Years 2021 and 2022

Previously Granted Exemptions for Fishing Years 2021 and 2022 (1-18)

We have already granted exemptions from the following requirements for fishing years 2021 and 2022, all of which have been requested and granted in previous years: (1) 120-day block out of the fishery required for Day gillnet vessels; (2) 20-day spawning block out of the fishery required for all vessels; (3) limits on the number of gillnets for Day gillnet vessels outside the GOM; (4) prohibition on a vessel hauling another vessel's gillnet gear; (5) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish DAS; (6) limits on the number of hooks that may be fished; (7) DAS Leasing Program length and horsepower restrictions; (8) prohibition on discarding; (9) gear requirements in the Eastern U.S./Canada Management Area; (10) prohibition on a vessel hauling another vessel's hook gear; (11) the requirement to declare an intent to fish in the Eastern U.S./Canada Special Access Program (SAP) and the Closed Area (CA) II Yellowtail Flounder/Haddock SAP prior to leaving the dock; (12) seasonal restrictions for the Eastern U.S./Canada Haddock SAP; (13) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP; (14) sampling exemption; (15) prohibition on combining small-mesh exempted fishery and sector trips in southern New England (SNE); (16) extra-large mesh requirement to target dogfish on trips excluded from at-sea monitoring (ASM) in SNE and Inshore GB; (17) requirement that Handgear A vessels carry a Vessel Monitoring System (VMS) unit when fishing in a single broad stock area; and (18) limits on the number of gillnets for Day gillnet vessels in the GOM. We also approved an exemption from the 6.5-inch (16.5-cm) minimum mesh size requirement for trawl nets to allow a 5.5-inch (14.0-cm) codend on directed redfish trips, however, that exemption was eliminated in 2021 when we approved a new universal sector exemption for redfish as part of Framework Adjustment 61 (86 FR

40353; July 28, 2021). A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable final rules identified in Table 4 below.

Table 4 -- Exemptions Previously Granted for Fishing Years 2020 and 2021

Exemptions	Rulemaking	Date of Publication	Citation
1-2, 4-9	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076
10-11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
12-14	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591
3, 15	Fishing Years 2015-2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143
16	Framework 55 Final Rule	May 2, 2016	81 FR 26412
17	Amendment 18 Final Rule	April 21, 2017	82 FR 18706
18	Fishing Year 2018 Sector Operations Final Rule	May 1, 2018	83 FR 18965
Northeast Multispecies Federal Register documents can be found at http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/ .			

Exemption Requests We Do Not Propose To Approve in Fishing Year 2022

For fishing year 2022, sectors requested a total of four new exemptions, two related to extra-large mesh gillnets and EM, and two related to MREM and existing universal exemptions. We are proposing to deny the new sector exemption requests for fishing year 2022.

Sector Exemptions Related to Extra-Large Mesh Gillnets and Electronic Monitoring

We received two sector exemption requests that would grant exemptions from EM requirements for vessels fishing with gillnets with a minimum mesh size of 10-inch (25.4-cm) or larger. One would exempt vessels from the requirement to operate EM systems on trips using 10-inch (25.4-cm) or larger mesh gillnets in the Inshore Georges Bank and Southern New England Broad Stock Areas. The other would exempt vessels from the requirement to operate EM systems on trips using 10-inch (25.4-cm) or larger mesh gillnets in all broad stock areas.

The exemption applying only to the Inshore Georges Bank and Southern New England Broad Stock Areas would be similar to the operation of vessels using ASM to

meet their monitoring requirements. Vessels using exclusively 10-inch (25.4-cm) or larger mesh gillnets in the Inshore Georges Bank and Southern New England Broad Stock Areas are not required to carry an ASM. However, neither exemption is consistent with the sector audit model EM program, which requires the operation of EM systems on all trips, whether or not they are required to carry an ASM. This is necessary to eliminate bias and ensure the appropriate application of EM video review. Exempting vessels from EM requirements in the manner requested under these exemptions would undermine the effectiveness of the EM programs. Additionally, in the case of the exemption request applying to all broad stock areas, there is no equivalent waiver from ASM coverage at this time. Past data reviews that supported removing the ASM requirement for extra-large mesh gillnet trips in the Inshore Georges Bank and Southern New England Broad Stock Areas found higher catches of groundfish in extra-large mesh gillnets in other broad stock areas. As a result, we are proposing to deny both of these exemption requests.

Sector Exemptions Related to Maximized Retention Electronic Monitoring

We received two other novel sector exemption requests that would grant mesh size exemptions to sector vessels fishing under MREM. One would authorize the use of 4.5-inch (11.4-cm) mesh codends by MREM vessels when fishing under the provisions of the Redfish Exemption Program. The other would authorize the use of 5.1-inch (13.0-cm) mesh codends by MREM vessels when fishing on Georges Bank with haddock separator or Ruhle trawl. Both exemptions are based on activities currently authorized under an exempted fishing permit (EFP) that is allowing several vessels to test the use of MREM in the groundfish fishery. Both exemptions would allow MREM vessels fishing under universal sector exemptions to fish with mesh smaller than that otherwise allowed by regulation. The Redfish Exemption Program universal exemption allows trawl vessels to target redfish using a 5.5-inch (14.0-cm) codend under certain conditions, while the

other universal exemption allows vessels fishing on Georges Bank with a haddock separator or Ruhle trawl to use a 6.0-inch (15.2-cm) codend. The sectors requesting these smaller mesh exemptions hope to increase the harvest of Acadian redfish and Georges Bank haddock and suggest that vessels using the exemptions will have minimal bycatch of non-target stocks while being accountable for all catch.

We do not have sufficient information to support approval of these sector exemption requests at this time. While several vessels have been testing the use of the smaller meshes under a MREM EFP, there is still insufficient catch data for an in-depth analysis of catch composition comparing catch by mesh authorized under the universal exemptions and the mesh sizes sectors have requested. Initial findings suggest that there may not be substantial benefits from using smaller mesh and indicate the possibility of higher catch of some non-target stocks, including white hake and ocean pout which are both overfished and in a rebuilding plan. It will likely be necessary to collect additional data, potentially under an EFP or other cooperative research, to more thoroughly evaluate the potential impacts of approving either of these exemptions.

We are also concerned that both of these exemptions would directly modify, for a subset of sector vessels, the provisions of universal sector exemptions developed by the Council. Universal exemptions are management provisions that are set in regulation. Amendment 16 to the FMP provided that listed universal exemptions should be modified or removed under a framework adjustment to the FMP in order to minimize sector and NMFS' administrative burden. It is unclear if the Council intended for GARFO to have the authority to modify universal exemptions, but we maintain that changes to universal exemptions should be made by the Council. This is consistent with the recently adopted universal redfish exemption, which has been in place for less than one year, was developed by the Council with the intent of increasing Council oversight over the redfish exemption. These exemption requests seek to change provisions of the universal

exemptions outside the framework adjustment process. As a result of these circumstances we proposing to deny both of these novel sector exemptions.

Classification

The NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed action is exempt from the procedures of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with Federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would allocate ACE to sectors for fishing year 2022 (May 1, 2022, through April 30, 2023) and would make minor modifications to existing sector operations plans. Approved sectors are exempt from certain effort control regulations, like trip limits and days-at-sea, and fish under the sector provisions of the Northeast Multispecies FMP and their sector’s harvest rules. This action is expected to have positive impacts on fishing vessels and purchasers of seafood products.

For Regulatory Flexibility Act purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has

combined annual receipts less than \$11 million for all its affiliated operations worldwide. The determination of whether the entity is large or small is based on the average annual revenue for the most recent three years for which data are available (from 2018 through 2020).

To participate in the Northeast Multispecies Sector Program, vessels must possess a limited access multispecies permit and operate as a member of a sector. Therefore, entities holding one or more limited access multispecies permits are the entities that have the potential to be directly impacted by this action. Ownership data collected from permit holders indicates that there are 579 distinct business entities that hold at least one permit impacted by the proposed action. Of these, 577 are categorized as small entities and 2 are categorized as large entities, per NMFS guidelines.

The allocation of fishing year 2022 annual catch entitlement to groundfish sectors will have a positive impact on all 577 entities, as it will allow them to participate in the sector groundfish fishery rather than fish under the common pool effort control regulations, which include limits of days-at-sea, trip limits, gear restrictions, size limits, and closures intended to control overall fishing mortality. In addition, these effort controls would be subject to in-season modifications and fishery closures based on industry-wide landings. Conversely, the ability to participate in the sector fishery would provide increased efficiency and flexibility to fishing businesses.

This action would provide preliminary ACE to previously approved groundfish sectors for fishing year 2022.

The proposed rule will not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 28, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

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[FR Doc. 2022-04643 Filed: 3/3/2022 8:45 am; Publication Date: 3/4/2022]